

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 4 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA and
MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME TAX

Versus

NATWARLAL SHANKERBHAI

Appearance:

Mr.P.K. Jani with MR MANISH R BHATT for Petitioner

MR KC PATEL, ;Mr.D.A.Mehta & Mr.R.K.Patel for Respondent No. 1

CORAM : MR.JUSTICE N.J.PANDYA and

MR.JUSTICE S.D.PANDIT

Date of decision: 16/08/96

ORAL JUDGMENT (Per N.J.Pandya,J.)

At the time the Reference came to be made only one decision given by the Orissa High Court was holding the field. This case was reported in ITR 497 Orissa, parties name being Govinda Chaudhary & Sons vs. CIT

Orissa.

2. The factual aspect of the dispute between the assessee and the Department relates to interest having been granted to the respondent-assessee when he had to fight a civil litigation for getting his dues from the Government in relation to a construction contract. The contract was entered into somewhere in the year 1953 and the work thereunder was completed in the year 1958. Finally, a decree came to be passed in favour of the assessee by this Court presumably in appeal to the tune of Rs.1,13,189/-. Rs.48,639/- was interest component of the said total amount.

3. While assesssing the income for the year 1976-77, the question before the I.T.O. related to the said sum of Rs.48,639/-received by the assessee as interest and dispute related to whether it should be treated as revenue receipt or not.

4. The Income-tax Officer held that it is taxable as such and the matter was carried before the Tribunal. Before the Tribunal, in view of the said Orissa decision, the issue came to be decided in favour of the assessee, but the said Orissa decision having been carried by the Department before the Supreme Court, the Department was granted reference as under:

Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that the interest received by the assessee from the Government was not liable to be taxed?

The said Supreme Court decision is now reported in 203 ITR 881 (Commissioner of Income-tax vs. Govinda Chaudhary & Sons. whereunder, the Honourable Supreme Court, so far as the present assessee-respondent is concerned, has clearly held that this will be a revenue receipt. This position is clearly accepted by the respondent with a request that suitable observation by this Court be made that when the said sum of Rs.48,639/- is to be considered as revenue receipt, it may be taxed in the same manner as other revenue receipts were taxed by the Department in the said assessment year. This request is reasonable and hence it is granted and the Department shall assess the same in that manner.

4. Except for this, nothing is now required to be

done and the Reference is answered in the affirmative
with no order as to costs.
